

CHRISTOPHER P. BURKE, ESQ.  
Nevada Bar No.: 004093  
atty@cburke.lvcoxmail.com  
218 S. Maryland Pkwy.  
Las Vegas, Nevada 89101  
(702) 385-7987  
Attorney for Debtor(s)

ECF FILED ON 09/01/09

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

In Re:	)	BK-S-09-24057-BAM
	)	Chapter 7
ERIC MWANGI, and	)	
PAULINE MWICHARO,	)	
	)	
Debtor(s).	)	DATE: 09-15-09
	)	TIME: 2:30 P.M.

SUPPLEMENT TO MOTION FOR SANCTIONS FOR [CONTEMPT FOR]  
VIOLATION OF AUTOMATIC STAY

Comes Now, Debtors, ERIC MWANGI and PAULINE MWICHARO, (hereinafter 'Debtors') by and through their attorney, CHRISTOPHER P. BURKE, ESQ., and hereby Supplements his Motion for Sanctions for [Contempt For] Violation of Automatic Stay scheduled to be heard on September 15, 2009.

At first blush, the Supreme Court case of Citizen Bank of Maryland v. Stumpf, 516 U.S. 16,116 S.Ct.286(1995) appears to be on point. But Debtors point out significant differences. First, eventhough Debtors owed Wells Fargo for a home equity line of credit, a credit card and a vehicle note, Wells Fargo's letter does not state it was seeking to 'setoff' their debt, only that "the Estate Funds are now in bankruptcy status, which means the

1 funds are no longer available to your client(s)".

2 Second, unlike in Stumpf Wells Fargo has not sought relief  
3 from stay. Finally, the Supreme Court did not determine "[w]hether  
4 that temporary refusal [to release funds] was otherwise wrongful".  
5 Stumpf 116 S.Ct.at 289.  
6

7 DATED this 1<sup>st</sup> day of September, 2009.

8  
9 Respectfully submitted,

10  
11 /S/CHRISTOPHER P. BURKE, ESQ.  
12 CHRISTOPHER P. BURKE, ESQ.  
13 Attorney for Debtor(s)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28